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 JOHN ARNTZ, in his official capacity as  
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 Elections

UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA

VOTING RIGHTS DEFENSE PROJECT,  
 AMERICAN INDEPENDENCE PARTY,  
 CLARA DAIMS, and SUZANNE  
 BUSHNELL,

Plaintiffs,

vs.

ALEX PADILLA, in his official capacity as  
 Secretary of State and an indispensable party,  
 TIM DEPUIS, in his official capacity as chief  
 of the Alameda County Registrar of Voters,  
 JOHN ARNTZ, in his official capacity as  
 Director of the San Francisco Board of  
 Elections, and DOES I–X,

Defendants.

Case No. 16-cv-02739-WHA

**[PROPOSED] ORDER GRANTING  
 DEFENDANT SAN FRANCISCO DIRECTOR  
 OF ELECTIONS JOHN ARNTZ’S MOTION  
 TO DISMISS**

Hearing Date: August 18, 2016  
 Time: 8:00 a.m.  
 Judge: Hon. William H. Alsup  
 Place: Courtroom 8, 19th Floor

1 After careful consideration of all of the papers, the court file and argument of counsel, the  
 2 Court grants the motion to dismiss Plaintiffs' Amended Complaint ("Complaint") filed by Defendant  
 3 John Arntz, the Director of San Francisco's Department of Elections ("Department"):

4 (1) The Complaint is moot because all of the relief sought by Plaintiffs was to stop  
 5 supposed harms from occurring at the election on June 7, 2016. Because that election has already  
 6 occurred, the action is moot.

7 (2) Plaintiffs lack standing. The only two Plaintiffs with any alleged connection to San  
 8 Francisco are Clara Daims and Suzanne Bushnell. Their alleged harm was uncertainty about whether  
 9 they could vote in the election. This was never a cognizable injury under Article III, but even if it was,  
 10 the anticipated harm never occurred, as these Plaintiffs voted in the election in the primary of their  
 11 choice.<sup>1</sup> As such, they lack standing to continue to pursue this lawsuit and the lawsuit is moot.

12 (3) Even if the Court could reach the merits of Plaintiffs' claims, they all fail. The  
 13 Complaint seeks mandamus relief under 28 U.S.C section 1361, but as the Court has already ruled,  
 14 that statute, by its plain language, applies only to federal officials. Because none of the defendants are  
 15 federal officials, Plaintiffs cannot seek relief under this statute.

16 (4) Plaintiffs seek relief under two provisions of the Voting Rights Act, but none of the  
 17 allegations in the Complaint concern voter registration (as required by Section 10101(a)(2)(A)), nor  
 18 does the Complaint allege that there has been a material omission on any act requisite to voting (as  
 19 required by Section 10101(a)(2)(B)).

20 (5) The Complaint alleges that the Department violated the First and Fourteenth  
 21 Amendment, but as the Court noted at the hearing, there are no cases holding that treating NPP and  
 22 non-NPP voters differently (even assuming there is evidence of such treatment) violates the  
 23 Constitution.

24 DATED:

25 \_\_\_\_\_  
 26 HONORABLE WILLIAM A. ALSUP  
 27 UNITED STATES DISTRICT COURT JUDGE

28 <sup>1</sup> The Court grants the Department's request for judicial notice of these facts.